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July 16, 2012

BY ELECTRONIC CASE FILING

Hon. Robert M. Levy
United States Magistrate
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Finazzo and Dey, CR 10-457 (RRM)

Dear Judge Levy:

This letter is submitted on behalf of our client Aeropostale, Inc., in reference to the Subpoena issued to it in this case by the Defendants Finazzo and Dey and as a result of the discussions held with the Court and all parties on July 12, 2012.

On Friday, July 13, 2012, Aeropostale spoke with counsel for Dey to determine whether the Defendants would be able to provide details concerning documents already produced to them by the Government. Furthermore, counsel for Aeropostale, its consultant Kroll Ontrack and counsel for Dey discussed logistics concerning this production. Also on that day, Aeropostale instructed Kroll Ontrack to begin readying documents for production to Defendants 12,622 (out of approximately 32,000) "full family" documents for production to Defendants. That production should be available to Defendants on July 18, 2012.

Today, Aeropostale and counsel for Dey discussed the arrangements described above, specifically a timetable for when Kroll will be able to review data produced by the Government to Defendants. According to counsel for Dey, that will occur either on July 18 or July 19. At the same time, Aeropostale is reviewing other e-mails to ready them for production. Aeropostale believes that this review will help it move forward with a large volume of production.

Consequently, barring any unforeseen circumstances, production of more than one-third of the documents at issue will commence on July 18. Aeropostale asks that it continue to move forward in this process without informing the Court on how it will proceed with the last portion of production at this juncture. Aeropostale earnestly believes that it should not have to make a

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decision concerning unreviewed documents prior to assessing the total volume of such documents because that manner of compliance would be unreasonable or oppressive and therefore violate Rule 17 of the Federal Rules of Criminal Procedure. It would be “unreasonable” because Aeropostale would be compelled to reveal what could be confidential material to Defendants and “oppressive” because, faced with such an order, Aeropostale would be forced to undertake significant expense to conduct an expedited review of a larger volume of material than would otherwise be required.

Aeropostale appeared in Court on July 12, 2012, seeking to move forward and comply with what was clearly this Court’s intended goal when it issued the Subpoena. It remains committed to do so and respectfully requests the opportunity to continue as described above without having to provide to Defendants a significant amount of documents that it has not had a chance to either evaluate or otherwise review. If the Court desires further clarification Aeropostale is available for a telephone conference to discuss this matter.

Respectfully Submitted,

WHITE AND WILLIAMS LLP

By: _____

Jay Shapiro

JS:jf